

REMARKS/ARGUMENTS

In the Office Action dated May 19, 2005, claim 5 was allowed. In this action, dated July 18, 2005, the Examiner now rejects claim 5 on art that was in the record before the previous action. Claims 9 and 12 are now allowed. The examiner has acknowledged that claims 6-8 are directed to allowable subject matter.

In response to the Office Action of July 18, 2005, Applicant requests re-examination and reconsideration of this application for patent pursuant to 35 U.S.C. 132.

Rejections under 35 USC 102(b)

Claim 5 stands rejected as anticipated by Powell. For a claim to be anticipated by a reference, the reference must show each and every feature recited in the claim. Powell does not anticipate the claim. Claim 5 recites that, "said fastener welded to said intramedullary rod about said bore." The reference does not disclose such a structure. The Examiner admits that the structure is not shown by his statement that, "the fastener is capable of being welded to the rod," Further, the Examiner refers to the fastener as element 18 in the reference. Powell discloses that reference 18 is a, "tapered bore," which raises the question of how a bore can be welded?

In his construction of the Powell device (Fig. 7), the Examiner has referred to the shaft 36 of bolt 34 as the, "link,"

recited in the claim. Claim 5 has been amended to recite that the link is freely movable in the bore of the intramedullary rod, see lines 17-18, page 13 of the specification.

The bolt 34 and shaft of Powell are not freely movable in the intramedullary rod but complementary threads require that the bolt be rotated and tightened in the intramedullary rod. The threaded connection between the bolt and the intramedullary rod of Powell forms the rigid prosthesis. There is no such connection in the instant invention.

SUMMARY

In light of the foregoing remarks and amendment to the claims, it is respectfully submitted that the Examiner will now find the claims of the application allowable. Favorable reconsideration of the application is courteously requested.

Respectfully submitted,



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